

HOUSE BILL NO. 416

INTRODUCED BY C. JUNEAU

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE TRUSTEES OF A SCHOOL DISTRICT TO ENTER INTO AN INTERLOCAL COOPERATIVE AGREEMENT WITH A COMMUNITY COLLEGE OR A TRIBALLY CONTROLLED COMMUNITY COLLEGE TO PROVIDE INSTRUCTIONAL CLASSES FOR AT-RISK STUDENTS OR FOR STUDENTS WHO HAVE DROPPED OUT OF SCHOOL; INCLUDING IN THE CALCULATION OF AVERAGE NUMBER BELONGING A PUPIL WHO IS 19 YEARS OF AGE OR OLDER AND UNDER 22 YEARS OF AGE; CLARIFYING THE DEFINITION OF "PUPIL"; AMENDING SECTIONS 7-11-103, 20-1-101, 20-5-101, AND 20-9-311, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Agreement with community college or tribally controlled community college. (1) As used in this section, the term "community college" includes a tribally controlled community college.

(2) The trustees of a school district may enter into an interlocal cooperative agreement pursuant to Title 7, chapter 11, part 1, with a community college to provide instructional classes for students who are at risk of dropping out of school or who have dropped out of school and want to return to complete graduation requirements or to prepare for the general education development examination.

(3) The instructional classes offered by the community college must be approved by the school district, and the instructor must have current and appropriate Montana high school certification. A student who participates in the instructional classes at a community college pursuant to an agreement authorized under subsection (2) must be enrolled, for purposes of calculating average number belonging, in a public school in the school district.

(4) A school district that, pursuant to an interlocal cooperative agreement, allows an enrolled student to attend a community college is not responsible for payment of the student's transportation costs to the college.

1 **Section 2.** Section 7-11-103, MCA, is amended to read:

2 **"7-11-103. Definition.** (1) For the purposes of this part, the term "public agency" ~~shall mean~~
3 means any political subdivision, including municipalities, counties, school districts, and any agency or
4 department of the state of Montana.

5 (2) For the purposes of [section 1], the term "public agency" includes a tribally controlled
6 community college."

7
8 **Section 3.** Section 20-1-101, MCA, is amended to read:

9 **"20-1-101. Definitions.** As used in this title, unless the context clearly indicates otherwise, the
10 following definitions apply:

11 (1) "Agricultural experiment station" means the agricultural experiment station established at
12 Montana state university-Bozeman.

13 (2) "Average number belonging" or "ANB" means the average number of regularly enrolled,
14 full-time pupils attending the public schools of a district.

15 (3) "Board of public education" means the board created by Article X, section 9, subsection (3),
16 of the Montana constitution and 2-15-1507.

17 (4) "Board of regents" means the board of regents of higher education created by Article X,
18 section 9, subsection (2), of the Montana constitution and 2-15-1505.

19 (5) "Commissioner" means the commissioner of higher education created by Article X, section 9,
20 subsection (2), of the Montana constitution and 2-15-1506.

21 (6) "County superintendent" means the county government official who is the school officer of
22 the county.

23 (7) "District superintendent" means a person who holds a valid class 3 Montana teacher certificate
24 with a superintendent's endorsement that has been issued by the superintendent of public instruction
25 under the provisions of this title and the policies adopted by the board of public education and who has
26 been employed by a district as a district superintendent.

27 (8) "K-12 vocational education" means vocational education in public school kindergarten through
28 grade 12.

29 (9) "Principal" means a person who holds a valid class 3 Montana teacher certificate with an
30 applicable principal's endorsement that has been issued by the superintendent of public instruction under

1 the provisions of this title and the policies adopted by the board of public education and who has been
2 employed by a district as a principal. For the purposes of this title, any reference to a teacher must be
3 construed as including a principal.

4 (10) "Pupil" means a child who is ~~6 years of age or older on or before September 10 of the year~~
5 ~~in which the child is to enroll or has been enrolled by special permission of the board of trustees under~~
6 ~~20-5-101(3) but has not yet reached 19 years of age and who is enrolled in~~ assigned and admitted under
7 the provisions of 20-5-101 to a school established and maintained under the laws of the state at public
8 expense. ~~For purposes of calculating the average number belonging pursuant to 20-9-311, the definition~~
9 ~~of pupil includes a person who has not yet reached 19 years of age by September 10 of the year and is~~
10 ~~enrolled under 20-5-101(3) in a school established and maintained under the laws of the state at public~~
11 ~~expense.~~

12 (11) "Pupil instruction" means the conduct of organized instruction of pupils enrolled in public
13 schools while under the supervision of a teacher.

14 (12) "Regents" means the board of regents of higher education.

15 (13) "School food services" means a service of providing food for the pupils of a district on a
16 nonprofit basis and includes any food service financially assisted through funds or commodities provided
17 by the United States government.

18 (14) "State board of education" means the board composed of the board of public education and
19 the board of regents as specified in Article X, section 9, subsection (1), of the Montana constitution.

20 (15) "State university" means Montana state university-Bozeman.

21 (16) "Superintendent of public instruction" means that state government official designated as a
22 member of the executive branch by the Montana constitution.

23 (17) "System" means the Montana university system.

24 (18) "Teacher" means a person, except a district superintendent, who holds a valid Montana
25 teacher certificate that has been issued by the superintendent of public instruction under the provisions
26 of this title and the policies adopted by the board of public education and who is employed by a district
27 as a member of its instructional, supervisory, or administrative staff. This definition of a teacher includes
28 a person for whom an emergency authorization of employment has been issued under the provisions of
29 20-4-111.

30 (19) "Textbook" means a book or manual used as a principal source of study material for a given

1 class or group of students.

2 (20) "Textbook dealer" means a party, company, corporation, or other organization selling, offering
3 to sell, or offering for adoption textbooks to districts in the state.

4 (21) "Trustees" means the governing board of a district.

5 (22) "University" means the university of Montana-Missoula.

6 (23) "Vocational education" means the instruction to prepare or improve the pupil for gainful
7 employment that does not require a baccalaureate or higher degree. This definition of vocational education
8 includes guidance and prevocational, related, or technical instruction necessary to prepare the pupil for
9 further vocational education or for entry into employment.

10 (24) "Vocational-technical education" means vocational-technical education of vocational-technical
11 students that is conducted by a unit of the Montana university system or a community college, as
12 designated by the board of regents."

13

14 **Section 4.** Section 20-5-101, MCA, is amended to read:

15 **"20-5-101. Admittance of child to school.** (1) The trustees shall assign and admit a child to a
16 school in the district when the child is:

17 (a) 6 years of age or older on or before September 10 of the year in which the child is to enroll
18 but is not yet 19 years of age;

19 (b) a resident of the district; and

20 (c) otherwise qualified under the provisions of this title to be admitted to the school.

21 (2) The trustees of a district may assign and admit any nonresident child to a school in the district
22 under the tuition provisions of this title.

23 (3) The trustees may at their discretion assign and admit a child to a school in the district who
24 is under 6 years of age or an adult who ~~is 19 years of age or older~~ has not reached 22 years of age by
25 September 10 of the year in which the student is to enroll if there are exceptional circumstances that merit
26 waiving the age provision of this section.

27 (4) The trustees shall assign and admit a child who is homeless, as defined in the Stewart B.
28 McKinney Homeless Assistance Act (Public Law 100-77), to a school in the district regardless of
29 residence. The trustees may not require an out-of-district attendance agreement or tuition for a homeless
30 child.

(5) Except for the provisions of subsection (4), tuition for a nonresident child must be paid in accordance with the tuition provisions of this title."

Section 5. Section 20-9-311, MCA, is amended to read:

"20-9-311. Calculation of average number belonging (ANB). (1) Average number belonging (ANB) must be computed as follows:

(a) compute an average enrollment by adding a count of ~~regularly enrolled full-time pupils~~ assigned and admitted under 20-5-101 who were enrolled as of the first Monday in October of the prior school fiscal year to a count of regularly enrolled pupils on February 1 of the prior school fiscal year, or the next school day if those dates do not fall on a school day, and divide the sum by two; and

(b) multiply the average enrollment calculated in subsection (1)(a) by the sum of the pupil-instruction and the approved pupil-instruction-related days for the current school fiscal year and divide by 180.

(2) For the purpose of calculating ANB under subsection (1), up to 7 approved pupil-instruction-related days may be included in the calculation.

(3) When a school district has approval to operate less than 180 school days under 20-9-806, the total ANB must be calculated in accordance with the provisions of 20-9-805.

(4) Enrollment for a part of a morning session or a part of an afternoon session by a pupil must be counted as enrollment for one-half day.

(5) In calculating the ANB for pupils enrolled in a program established under 20-7-117(1), enrollment at a regular session of the program for at least 2 hours of either a morning or an afternoon session must be counted as one-half pupil for ANB purposes. The ANB for a kindergarten student may not exceed one-half for each kindergarten pupil.

(6) When a pupil has been absent, with or without excuse, for more than 10 consecutive school days, the pupil may not be included in the enrollment count used in the calculation of the ANB unless the pupil resumes attendance prior to the day of the enrollment count.

(7) The enrollment of prekindergarten pupils, as provided in 20-7-117, may not be included in the ANB calculations.

(8) The average number belonging of the regularly enrolled, full-time pupils for the public schools of a district must be based on the aggregate of all the regularly enrolled, full-time pupils attending the

1 schools of the district, except that when:

2 (a) (i) a school of the district is located more than 20 miles beyond the incorporated limits of a city
3 or town located in the district and at least 20 miles from any other school of the district, the number of
4 regularly enrolled, full-time pupils of the school must be calculated separately for ANB purposes and the
5 district must receive a basic entitlement for the school calculated separately from the other schools of the
6 district;

7 (ii) a school of the district is located more than 20 miles from any other school of the district and
8 incorporated territory is not involved in the district, the number of regularly enrolled, full-time pupils of the
9 school must be calculated separately for ANB purposes and the district must receive a basic entitlement
10 for the school calculated separately from the other schools of the district;

11 (iii) the superintendent of public instruction approves an application not to aggregate when
12 conditions exist affecting transportation, such as poor roads, mountains, rivers, or other obstacles to
13 travel, or when any other condition exists that would result in an unusual hardship to the pupils of the
14 school if they were transported to another school, the number of regularly enrolled, full-time pupils of the
15 school must be calculated separately for ANB purposes and the district must receive a basic entitlement
16 for the school calculated separately from the other schools of the district; or

17 (iv) two or more elementary districts consolidate or annex under the provisions of 20-6-203,
18 20-6-205, or 20-6-208; two or more high school districts consolidate or annex under the provisions of
19 20-6-315 or 20-6-317; or two or more K-12 districts consolidate or annex under Title 20, chapter 6, part
20 4, the ANB and the basic entitlements of the component districts must be calculated separately for a
21 period of 3 years following the consolidation or annexation;

22 (b) a junior high school has been approved and accredited as a junior high school, all of the
23 regularly enrolled, full-time pupils of the junior high school must be considered as high school district pupils
24 for ANB purposes;

25 (c) a middle school has been approved and accredited, all pupils below the 7th grade must be
26 considered elementary school pupils for ANB purposes and the 7th and 8th grade pupils must be
27 considered high school pupils for ANB purposes; or

28 (d) a school has not been accredited by the board of public education, the regularly enrolled,
29 full-time pupils attending the nonaccredited school are not eligible for average number belonging calculation
30 purposes, nor will an average number belonging for the nonaccredited school be used in determining the

1 BASE funding program for the district.

2 (9) The district shall provide the superintendent of public instruction with semiannual reports of
3 school attendance, absence, and enrollment for regularly enrolled students, using a format determined by
4 the superintendent."

5

6 NEW SECTION. **Section 6. Notification to tribal governments.** The secretary of state shall send
7 a copy of [this act] to each tribal government located on the seven Montana reservations, the Little Shell
8 band of Chippewa, and the presidents of each tribally controlled community college.

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10 NEW SECTION. **Section 7. Codification instruction.** [Section 1] is intended to be codified as an
11 integral part of Title 20, chapter 9, part 7, and the provisions of Title 20, chapter 9, part 7, apply to
12 [section 1].

13

14 NEW SECTION. **Section 8. Effective date -- applicability.** [This act] is effective July 1, 2001, and,
15 for purposes of calculating average number belonging, applies to enrollment counts taken during school
16 fiscal years beginning on or after July 1, 2001.

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